



No.: **1999-04**
Date: **January 27, 1999**

FEDERAL HOUSING FINANCE BOARD

Waiver of Section 935.9(a) to Allow a Federal Home Loan Bank to Accept
Delinquent FHA/VA Loans as Eligible Collateral For Advances

WHEREAS, the Federal Home Loan Bank (FHLBank) [REDACTED] currently has approximately \$ [REDACTED] in advances outstanding to a member [REDACTED] Company (Company), a portion of which is secured by a pledge from Company of certain delinquent or defaulted loans (or other securities secured by delinquent or defaulted loans) insured or guaranteed by the Federal Housing Administration and the Department of Veteran's Affairs (Delinquent FHA/VA Collateral); and

WHEREAS, section 10(a) of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. § 1430(a), requires that all FHLBank advances to members be fully secured by collateral eligible under one or more of four specified categories; and

WHEREAS, section 935.9(a) of the Federal Housing Finance Board (Finance Board) Advances Regulation, 12 C.F.R. § 935.9(a), which implements the statutory collateral requirements, currently does not permit FHLBanks to accept as collateral for member advances mortgages that are more than 90 days delinquent, even if such mortgages could qualify as eligible government securities collateral under section 10(a)(2) of the Bank Act, 12 U.S.C. § 1430(a)(2); and

WHEREAS, on May 11, 1998, the FHLBank [REDACTED] entered into a Supervisory Agreement (Agreement) that was approved by the Board of Directors of the Finance Board, *see* Res. No. 98-30 (June 24, 1998) and which provides, among other things, that [REDACTED]

and

WHEREAS, on October 2, 1998, the Board of Directors of the Finance Board granted to the FHLBank [REDACTED] a waiver of section 935.9(a) of the regulations, effective until January 31, 1999, in order to: permit the FHLBank to roll over certain advances secured by Delinquent FHA/VA Collateral; treat as rollovers certain advances subject to call at the option of the FHLBank; and allow the FHLBank to honor requests from Company for new advances using available collateral pledged to the FHLBank, including Delinquent FHA/VA Collateral; and

WHEREAS, on December 8, 1998 the Finance Board published a proposed rule to amend its Advances Regulation, *inter alia*, to state expressly that FHLBanks are authorized to accept Delinquent FHA/VA Collateral as eligible government securities collateral pursuant to section 10(a)(2) of the Bank Act, *see* 63 Fed. Reg. 67625; and

WHEREAS, because the public comment period on the proposed rule does not expire until February 8, 1999, any final rule promulgated by the Finance Board would not become effective until after the expiration of the waiver granted to the FHLBank [REDACTED] under Resolution Number 1998-44; and

WHEREAS, in order to enable itself to continue to honor requests for advances from Company, while remaining in compliance with the Agreement and the Advances Regulation after January 31, 1999, the FHLBank [REDACTED] has requested an extension of the waiver of section 935.9(a) of the regulations to allow for the rollover of maturing advances to Company that are secured by Delinquent FHA/VA Collateral and to allow the FHLBank to honor requests from Company for new advances using available collateral pledged to the FHLBank, including Delinquent FHA/VA Collateral; and

WHEREAS, under section 902.6 of the Finance Board regulations, 12 C.F.R. § 902.6, any party may request a waiver of a provision, restriction or requirement of the Finance Board regulations not otherwise required by law if such waiver is not inconsistent with the law, does not adversely affect any substantial existing rights and the Finance Board finds, *inter alia*, that application of the restriction would adversely effect achievement of the purposes of the Bank Act; and

WHEREAS, Finance Board staff has no legal or safety and soundness concerns if the extension of the waiver is granted pursuant to the terms of this resolution;

NOW, THEREFORE, IT IS RESOLVED that the Board of Directors of the Finance Board hereby extends its waiver of section 935.9(a) of the Finance Board Advances Regulation, 12 C.F.R. § 935.9(a), for the FHLBank [REDACTED] so that the FHLBank [REDACTED] may roll over maturing advances to Company that are secured by Delinquent FHA/VA Collateral and may make new advances to Company using available collateral pledged to the FHLBank [REDACTED] including Delinquent FHA/VA Collateral;

IT IS FURTHER RESOLVED that this waiver is effective until April 15, 1999 or until the adoption by the Finance Board of a final rule amending the Finance Board's Advances regulation to permit FHLBanks to accept Delinquent FHA/VA Collateral as collateral eligible to secure advances to members, whichever occurs sooner.

By the Board of Directors of the
Federal Housing Finance Board

/s/ Bruce A. Morrison

Bruce A. Morrison
Chairman